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File No. L.C. Misc.

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Legal **DEPARTMENT**

B. **BRANCH**

P 3(E) 1942

Subject:—

Legislative Assembly and Council:

Miscellaneous Correspondence relating to —

File No. L.C. Misc./42.

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The points which ~~ax~~ arise from Mr. Mandlik's letter are.-

(1) Whether any of the R.L.A.'s rights or privileges are encroached on when having report to the section 93 regime, Government refuses to regard him as concerned in a matter in which he professes to be interested not personally but only as as M.L.A.,and

(2) Whether the Honourable the Speaker continues to possess the right and duty to grard the rights and privileges of the M.L.A.s in ~~xyx~~ spite of the suspension of the Legislature in a section 93 regime.

The answer to the first question in this case appears to be in the negative and to the second question in the affirmative, It is clear that under the section 93 regime, section 71 of the Government of India Act, 1935 stands ~~xxxpxx~~ suspended, although sections 60 and 61 are not suspended. (See provision (1) in the Governer's Proclamation No. 201, dated 4th November 1939). The result is that an M.L.A. continues to be an elected M.L.A. representing his constituency but has no functions. Further - more, he possesses no general or special privileges secured to him under section 71. He may therefore continue to posses only such privileges or rights as are already statutorily sanctioned and continued by or under the provisions of an existing law, (e.g. section 117-L of the Land Revenue Code). The M.L.A.' ~~xixx~~ right or privilege in the present case cannot be related to any statutory enactment or rule.

2. As regards the Honourable the Speaker, suspension of section 65 does not affect his position as the Assembly's duty elected speaker, although his functions vis-a-vis the Legislature are suspended. His personal position and privileges as Speaker however continue as before, the privileges being undefined under the Government of India Act but being analogous

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to those of the Speaker of the House of Commons. The Speaker of the HOuse of Commons has two capacities, namely, (1) as the Spokesman and representative of the House, and (2) as the Chairman of the House. Of the two capacities, the second is necessarily suspendd under a section 93 regime for the Assembly's Speaker. But the first capacity, it appears, would continue. In this capacity the Speaker is the custodian of the privileges of the House ~~in attend~~ and of the rights or privileges which continue to attend to the M.L.As under the existing laws. (see paragraph 23 at page 25 of Ilvert's house of Commons Manual of ~~Procedure~~ procedute in the Public Business-Sixth Edition).

3. In view of the answers to the two questions the Legislative Assembly Office will no doubt put up Mr. Mandlik's ~~fixx~~ letter to the Honourable Speaker who may thereon see fit to decide that no right or privilege of Mr. Mandlik is invaded in the present cass as alleged by him.

Remembrancer of Legal Affairs,

U.R. to L.A. Office, No.229 - Confl. dated the 1st June 1942.

S.C,
28th ~~Apr~~ April 1956.